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VIA SUBMISSION @ FOIAONLINE.REGULATIONS.GOV

Freedom of Information Officer  
U.S. EPA Region 4  
Atlanta, Georgia

Re: **Freedom of Information Act Request**

Dear FOIA Officer:

Please accept this request for information, submitted on behalf of this firm's client, Lhoist North America, Inc. ("Lhoist"), pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") and the U.S. Environmental Protection Agency's ("EPA") FOIA regulations at 40 C.F.R. Part 2. This request seeks complete copies of all EPA Region 4 files on Lhoist, and all of Lhoist's affiliated entities and predecessors in name (see below), relating to permitting, compliance, and enforcement under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* This specifically includes, in addition to all other types of responsive records,<sup>1</sup> all correspondence and communications, both internally within EPA and between EPA and any external person, entity, or agency.

For all responsive email correspondence only, EPA may limit its response to just those records made or received since January 1, 2012. For all other types of records, please provide copies of all records, irrespective of date.

As mentioned above, we are seeking all responsive records pertaining to Lhoist and all of its affiliated and/or preceding corporate entities. Those entities may include:

- Alabama Allied Lime Company;
- Allied Lime Company, Inc.;
- Allied Lime Company of Alabama;
- Chemical Lime Company;
- Chemical Lime Company of Alabama, Inc.;
- Chemical Lime Company of Alabama, LLC;
- ChemLime Company;
- Lhoist NA;
- Lhoist North America, Inc.; and
- Lhoist North America of Alabama, LLC;

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<sup>1</sup> For purposes of this request, the term "record" is given its broadest possible meaning under federal law, including FOIA, 5 U.S.C. § 552(f)(2), and the Federal Records Act, 44 U.S.C. § 3301.

We believe that the information requested above is publicly available and not exempt from mandatory disclosure under FOIA. However, to the extent that EPA believes one or more of the records described above qualify for withholding under a FOIA exemption, we respectfully request that EPA exercise discretionary disclosure in the public's interest, consistent with the policies set forth by the President and Attorney General of the United States.<sup>2</sup> In addition, we request that EPA provide all "reasonably segregable portion[s]" of any responsive record EPA believes to contain exempt information. See 5 U.S.C. § 552(b) (sentence immediately following exemptions).

Should EPA ultimately decide to withhold any responsive information, please describe for each record or partial record withheld (1) under which of the categories described above the record falls, and (2) the basis upon which EPA relies for its decision to withhold the record. As you are aware, it is ultimately the agency's burden to establish the applicability of any FOIA exemption.<sup>3</sup> Therefore, for any withholding, please provide a description sufficient to determine what information is being withheld and the specific reason(s) for the withholding.

We are willing to pay the costs associated with this FOIA request up to \$2,000 without further authorization. Should EPA's costs exceed this amount, please contact me immediately to discuss further cost assurance.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

BALCH & BINGHAM LLP



Tal Simpson

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<sup>2</sup> See Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009) (FOIA "should be administered with a clear presumption: [i]n the face of doubt, openness prevails"); Attorney General Holder's Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act (Mar. 19, 2009) ("strongly encourag[ing] agencies to make discretionary disclosures of information").

<sup>3</sup> See 5 U.S.C. § 552(a)(4)(B) (providing that "the burden is on the agency to sustain its action" to withhold records under a FOIA exemption); see also, e.g., *Department of State v. Ray*, 502 U.S. 164, 173 (1991) (explaining that it is agency's burden "to justify the withholding of any requested documents"); *DOJ v. Tax Analysts*, 492 U.S. 136, 142 n.3 (1989) ("The burden is on the agency to demonstrate, not the requester to disprove, that the materials sought are not 'agency records' or have not been 'improperly' 'withheld'").